

**AFTER FINAL RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE**

Appl. Serial No. 09/335,363
Customer No. 26021
Reply to Final Office Action of August 12, 2003

PATENT
39D-1884 (81841.0019)

REMARKS/ARGUMENTS:

Claims 1 and 20 are amended. Support for the amendments to claims 1 and 20 can be found on page 12, lines 6-16 of the Applicant's specification. Claims 1-34 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Claim Rejection Under 35 U.S.C. § 102:

Claims 1-11, 13, 14, and 20-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Stylli et al. The Applicant respectfully traverses this rejection.

Claim 1, as amended, is as follows:

A clinical chemistry system comprising:

a storing station that receives and stores a plurality of primary sample tubes;

a sampling station including a sample probe that draws a volume of sample from a primary sample tube and transfers the volume to a secondary tube;

a carriage mechanism, comprising a gripper with a pair of opposed arms that close on one of the plurality of primary sample tubes, grips it, lifts it, and transports the primary sample tube from the storing station to the sampling station and returns the primary sample tube from the sampling station to the storing station;

a first and a second secondary tube transfer station, respectively, for coupling to first and second analyzers, the first and second sample tube transfer stations adapted to move the secondary

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sample tube from a continuous transport mechanism to be received by a corresponding one of the first and second analyzers; and
the continuous transport mechanism for moving filled secondary tubes to a selected one of the first and second secondary tube transfer stations.

Applicant respectfully submits that Stylli cannot anticipate claim 1, because Stylli fails to teach "a carriage mechanism, comprising a gripper with a pair of opposed arms that close on one of the plurality of primary sample tubes, grips it, lifts it, and transports the primary sample tube from the storing station to the sampling station and returns the primary sample tube from the sampling station to the storing station." Claim 1 was amended to clarify i) that the gripper of the present invention utilizes a pair of opposing arms to grip sample tubes, and ii) that this gripper transports tubes from a storing station to a sampling station.

In Stylli, what the Examiner refers to as a gripper is really a chemical well retriever arm that engages plates from the bottom. (Stylli, column 11, lines 63-66). This chemical well retriever does not have a pair of opposed arms, but rather it uses a platen. (Stylli, column 10, lines 46-49). Furthermore, Stylli does not use this chemical well retriever to transport plates from a storing station to a sampling station. Instead, Stylli relies on a conveyor to transport plates from a sample distribution module to a storage module. (Stylli, column 12, lines 27-30; column 56, lines 15-22).

Stylli cannot make claim 1 obvious. Stylli must rely on two pieces of equipment, e.g., a platen and a conveyor for transferring plates from a storing station to a sampling station, while the present invention offers the advantage that only one piece of equipment, i.e., a gripper, is needed to accomplish the same result.

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In addition, the chemical well retriever of Stylli encourages the use of a standard plate (Stylli, column 8, lines 57-67), while the present invention allows tubes of various diameters and heights to be used. (Applicant's specification, at page 10, lines 2-7).

In light of the foregoing, Applicant respectfully submits that Stylli could not have anticipated or rendered obvious claim 1, because Stylli fails to teach or suggest each and every claim limitation. Claims 2-19 depend from claim 1 and cannot be anticipated or rendered obvious for at least the same reasons as claim 1. Withdrawal of these rejections is thus respectfully requested.

Claim 20, as amended, is as follows:

A clinical chemistry system comprising:

a sample identification station comprising a sample identification mechanism for determining sample identification information from a primary sample tube;

a transferring mechanism for transferring a volume of the sample from the primary sample tube into a secondary sample tube;

a carriage mechanism, comprising a gripper with a pair of opposed arms that close on, grips, and lifts the primary sample tube contained in a holder, whereby the primary sample tube separates from the holder, and transports the primary sample tube to the sample identification station;

a continuous transport mechanism for moving secondary sample tubes within the system;

first and second sample tube transfer stations, respectively, for coupling to first and second analyzers, the first and second sample tube

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transfer stations adapted to move the secondary sample tube from the continuous transport mechanism to an interface of a first or second analyzer; and

a host computer, the host computer receiving sample identification information and issuing a sample testing message that includes one of the first and second analyzers as a destination.

Claim 20, although not depending from claim 1, requires the similar limitations of i) a gripper with a pair of opposed arms that close on, grips, and lifts the primary sample tube; and ii) using this gripper to transport the sample tube to a sample identification station. Therefore, Stylli could not have anticipated or rendered obvious claim 20 for the same reasons as discussed above. Claims 21-34 depend from claim 20 and cannot be anticipated or rendered obvious for at least the same reasons as claim 20. Withdrawal of these rejections is thus respectfully requested.

Claim Rejection Under 35 U.S.C. § 103:

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stylli et al in view of Kurosaki et al. The Applicant respectfully traverses this rejection.

Claim 12 depends from claim 1 and cannot be rendered obvious over Stylli for at least the same reasons as discussed above. Kurosaki cannot remedy the defect of Stylli and is not relied upon by the Examiner for such. Instead, the Examiner cites Kurosaki for teaching a cap piercer. Kurosaki neither teaches nor suggests

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anything related to grippers, much less grippers that transport tubes from the storing station to the sampling station.

In light of the foregoing, Applicant respectfully submits that Stylli and Kurosaki could not have made claim 12 obvious, because the combination of references fails to teach or suggest each and every claim limitation. Withdrawal of this rejection is thus respectfully requested.

Allowable Subject Matter:

The Examiner indicated that claims 15-19 and 28-34 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. However, since claims 15-19 and 28-34 depend from claims 1 and 20, respectively, and both claims 1 and 20 are believed to be patentable, claims 15-19 and 28-34 are believed to be patentable in their current form.

Applicant believes the foregoing amendments comply with requirements of form and thus may be admitted under 37 C.F.R. § 1.116(a). In addition, admission is requested under 37 C.F.R. § 1.116(a) as presenting rejected claims in better form for consideration on appeal.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

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If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,

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Date: November 6, 2003

By:



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